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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,076	11/21/2001	Cory O. Nykoluk	16513-8679	2127

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EXAMINER

MAI, TRI M

ART UNIT

PAPER NUMBER

3727

DATE MAILED: 06/18/2003 *11*

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/990,076

Applicant(s)

NYKOLUK ET AL.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6,7,8
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Priority***

1. Applicant's claim for domestic priority under 35 U.S.C. 120 is acknowledged. However, the application upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claim of this application. The parent case 09705171 fails to disclose or provide adequate support for the handle having two axes.

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 21-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Bellini (WO0152687). Bellini teaches a baggage having a retractable arm portion, a towing handle with the two axes at portion 13 and 14 as claimed.

Regarding claim 29-32, the embodiment in Fig. 5 has a T-shaped handle as claimed.

3. Claims 21-28, and 33-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Hansen et al. (5722118). Hansen teaches a baggage having retractable arm portions 11, a towing handle with the two pivotable axes at portion 20 and at 146 as shown in Figs. 1 and 8.
4. Claims 21-28, and 33-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Sadow (6193033). Sadow teaches a baggage having retractable an arm portion 50, a towing handle 54 with the two pivotable axes at in Figs. 1 and 8. The arm 13 is movable between extended and retracted position as shown in Figs. 7 and 13, and the arm has a distal portion where it is attached to the handle 54 by the two pivoting joints as shown in Fig. 13, and the distal

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end of the arm portion is closer to the piece of luggage (in Fig. 7) in the retracted position than when the arm is in the extended position.

Regarding claim 22, note the two shafts.

Regarding claim 23, the two axes intersect at the centers of the shafts.

Regarding claim 24 when the handle 54 is parallel to the ground surface the first axes is perpendicular with the wheel rotation axis.

### *Response to Arguments*

5. Please note the new grounds of rejection of Bellini and Hansen.

With respect to the Sadow reference, as set forth above, please note that the term "arm" is broad, and portion 50 in Fig. 13 is the arm as claimed. The arm 13 is movable between extended and retracted position as shown in Figs. 7 and 13, and the arm has a distal portion where it is attached to the handle 54 by the two pivoting joints as shown in Fig. 13, and the distal end of the arm portion is closer to the piece of luggage (in Fig. 7) in the retracted position than when the arm is in the extended position (fig. 13).


### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai   
Primary Examiner  
Art Unit 3727

June 16, 2003